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UNCLAS SECTION 01 OF 03 HO CHI MINH CITY 000055

SIPDIS

STATE FOR PRM/A, PRM/RPC, AND CA/VO/L
BANGKOK FOR RMA, USCIS, AND OPE

E.O. 12958: N/A

TAGS: [PREF](#) [CMGT](#) [VM](#)

SUBJECT: DISPOSITION OF REFUGEE RECORDS IN HO CHI MINH CITY

REF: A. A: HRS, PRM/A, PRM/RPC TELECON DEC. 23, 2008

[1](#)B. B: NELSON/SWANSON E-MAIL DEC. 23, 2008

[1](#)C. C: NELSON/DO E-MAIL DEC. 24, 2008

[1](#)D. D: NELSON/SWANSON E-MAIL JAN. 13, 2009

[1](#)E. E: BURKHARDT/SWANSON E-MAIL JAN. 16, 2009

[1](#)1. (U) This is an action request. Please see Para 14.

[1](#)2. (U) Summary: The following is an item by item plan for disposition of refugee and Amerasian files currently in the custody of the Humanitarian Resettlement Section or the Consular Section of ConGen HCMC. Reference is made to relevant citations from the FAM, FAH, and the Foreign Records Disposition Schedules: Chapter 12 (Refugee) and Chapter 9 (Visa). Post requests Department clearance on the proposed disposition actions and guidance on questions listed in Para 14. End summary.

Microform Records

[1](#)3. (U) The Consular Section retains a copy of ODP records in a combination of microfiche and microfilm formats. There are 416,000 microfiche containing about 13,700,000 images and 777 rolls of microfilm containing about 2 million images. These records are stored in metal and wood cabinets and include 24 linear feet of 30 inch deep drawers stacked 8 feet high. This record has been digitized recently, but the digital record has not yet been fully tested.

[1](#)4. (U) All ODP records are handled according to their own disposition schedule and all known microform records are ODP-related. A master copy of ODP microform records is to be retained for 20 years (Ref B and Foreign Records Disposition Schedules Chapter 12: Refugee and Migration, B-12-002-04a [hereinafter referred to by B-12 and section number]). Other microform ODP records may be destroyed when no more than 10 years old (Ref B and B-12-002-04a and b2). It is unknown whether the microform records at Post are masters or copies. All of these microform records are for cases created between 10 and 20 years ago. Therefore it is necessary to determine if the Records Service Center (RSC), has a set of these microform records. If so, Post proposes that the RSC set be deemed the master with RSC responsible for disposition, while the set at Post will need to be sent elsewhere for destruction after it is determined that the digitized copy is fully functional (Para 13). The Consular Section has already determined that there is not a means of securely and safely destroying microform plastic film at Post.

[1](#)5. (U) The Consular Section had the digital copy of the ODP records made because it has an indefinite ongoing use for ODP records as a fraud prevention measure and as a means to quickly confirm valid family relationships where civil or other documents may have been destroyed or lost. HRS and its successors will have a limited need for access to ODP records because McCain amendment applications may be filed as derivative

ODP-HO applicants until 30 September 2009. If RSC does not have a set of these microform records, then Post's copy is the master and should be sent to RSC after confirmation that the digital copy is usable. There are three complete sets of the digitized ODP records on standalone workstations; two for the Consular Section and one with HRS. The HRS copy would be transferred to RMA or OPE Bangkok.

Other ODP Records

¶6. (U) Per Ref B, B-12-002-04a, B-12-002-04b(1), and B-12-002-04b(2), since ODP paper files were created more than 10 years ago, they may be destroyed at Post. Destruction will take place under conditions described in Para 13. Post notes that there are two subsets of ODP files that were still open when the process of copying ODP files into microform stopped in 1996 or 1997. The first subset of cases was concluded between late 1996 and the introduction of WRAPS to OPE HCMC in March 2003. Only paper copies of these files exist. The second subset includes files processed in WRAPS since March 2003. There will be no complete microform copies, and thus no "master copy" of these records. Per Ref D, the pre-WRAPS subset may be handled according to the procedures for ROVR cases (Para 9); ODP cases that migrated into WRAPS may be handled according to the procedures used for current refugee files; alternatively, the paper files may be transferred to the HCMC Consular Section, if useful for immigrant visa processing.

Amerasian Records

¶7. (U) Amerasian records are not specifically addressed in the Foreign Records Disposition Schedules. In addition to 5 four drawer filing cabinets of WRAPS era Amerasian files, HRS has 190 boxes ("records retiring" boxes, measuring 15"x12"x10") of

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pre-WRAPS Amerasian files. Per Ref B, Amerasian records are to be treated as immigrant visa records and are to be turned over to HCMC's Consular Section. Chapter 9: Consular Records, of the Foreign Records Disposition Schedules provides different retention periods for refused immigrant visas depending on the grounds of refusal. Most Amerasian cases were refused under INA Section 101(a)(42) which is not addressed in Chapter 9. Post requests guidance on this point. The second most common reason for refusal of Amerasian cases is 212(a)(6)(C) and/or 212(E); per B-09-002-02b(1) such files are retained at Post and destroyed after the applicant reaches 100 years of age or 10 years after the last visa activity. Per B-09-002-01b, no paper files of issued immigrant visas are retained. Per B-09-002-03g(1), it appears that abandoned Amerasian cases may be destroyed three years after failure to appear or failure to respond to a 221(g) refusal. Post requests confirmation or guidance on this point.

¶8. (U) The Consular Section will be taking over the Amerasian program as HRS closes. HRS now receives requests to open Amerasian cases at a rate of about 300 per year. New applications are first screened to determine whether the applicant has applied before and if so, whether the applicant is providing new information. The large majority of new applications are from repeat applicants. About 100 cases per year are opened. The old Amerasian case files are extremely useful for fraud prevention and to support claimed relationships in these cases as computer records for these cases are cursory. There are microform records for Amerasian cases created during the ODP, but none after 1996. Therefore Post is considering retaining at least some of the Amerasian files. Post may also consider digitizing these records, but has not yet explored the cost. If it becomes known in the applicant pool that the old records are no longer available, Post expects a substantial increase in applications, many from applicants with previous CAT 1 refusals.

ROVR Cases

¶9. (U) Per Ref B, ROVR cases are handled according to the "old"

refugee file disposition schedule. Most ROVR cases were created more than 10 years ago. Any refugee processing files such as "registration cards" or "registration log books" may be destroyed at Post. One ROVR case is still open and is the sole active case within the last two years. The physical file will be sent to OPE Bangkok if the applicant does not travel before HRS closes. The last activity on all closed, denied, or unprocessed files was more than two years ago and per Ref B, these files should be destroyed at Post. Files for ROVR cases denied for serious ineligibilities should be transferred to USCIS so the denial record is available to DHS in the future, provided a method exists to identify these files. Per Ref B, OPE HCMC is not expected to manually search the files for serious ineligibilities. Per Ref B, ROVR paper files approaching 10 years old for approved refugees should be retained at Post and destroyed after reaching 10 years -- if there is an entity at Post that will take responsibility. Otherwise such files should be sent to OPE Bangkok. Approved ROVR paper files concluded between 2 and 9 years ago will be sent to RSC. Per Ref B, microform copies of approved ROVR cases may be destroyed because the program is finished and skeletal data was migrated to WRAPS. Post notes that to the best of our knowledge, there are no microform copies of ROVR cases.

Cases Created after ODP and ROVR

¶10. (U) Cases processed before the introduction of WRAPS at OPE HCMC should follow the procedures described for ROVR cases in Para 9. These procedures are also detailed in B-12-002-03. These would primarily consist of McCain, Visas-93, and U-11 cases. Most of these files are between 2 and 9 years old; if approved, paper files will be sent to RSC. Refused files of the same age will either be destroyed or turned over to USCIS depending on the seriousness of the refusal. All of these files could also be turned over to the Consular Section if deemed sufficiently useful for immigrant visa processing. No microform copy exists of these files.

Cases in WRAPS

¶11. (U) Cases created since the introduction of WRAPS at OPE HCMC in March 2003 and older cases that migrated into WRAPS will be handled according to Ref B. Since WRAPS contains a complete record of approved cases, any paper file that did not accompany the refugee to the U.S. is to be destroyed. Associated electronic WRAPS records will be transferred to OPE Bangkok at the appropriate time. Closed, denied, and unprocessed cases with alien numbers are to be transferred to USCIS. HRS requests a decision from USCIS whether to transfer these files to USCIS

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in HCMC or in Bangkok. Such cases should be transferred 120 days after last action. For cases with the last action within 120 days of HRS's closure, Post requests guidance and suggests transfer to USCIS in HCMC. Unprocessed cases other than Visas-93 with no alien number that have never appeared before USCIS are to be destroyed 2 years after last activity. Any such cases less than 2 years old when HRS closes are to be transferred to OPE Bangkok with documentation noting when these files will be eligible for destruction. Unprocessed Visas-93 cases will be transferred to USCIS unless Department directs otherwise. Post requests guidance on whether to transfer these cases to USCIS in HCMC or Bangkok.

Screened Out Humanitarian Resettlement Applications

¶12. (U) Approximately 60,000 screened out HR applications exist in WRAPS as PreCases without any associated scanned files. These records may have some utility for consular processing, but the Consular Section does not have access to WRAPS. HRS estimates that it would take 7 worker years to scan all of the associated documents. Another option is to scan the applications onto DVDs and index the images with the existing HR application list (Ref E). Otherwise, these files will be treated as unprocessed cases and may be destroyed two years after the date of last activity (Ref B and B-12-002-03d). Post

requests Department concurrence on scanning these files to a freestanding system outside of WRAPS as suggested in Ref E.

Record Destruction at Post

¶13. (U) Post has located one local contractor able to carry out paper file destruction in compliance with 12FAM544.1.f. For instance, the Consular Section uses this contractor to dispose of unprocessed visa files. The contractor employs mulching process that shreds paper files while monitored by a cleared U.S. citizen to ensure observance of relevant laws and regulations. This process cannot be used for the plastic-based microfilm and microfiche records, so even if it is determined that microform refugee records at Post may be destroyed, it will be necessary to ship them elsewhere for destruction. If destruction of the microform records is necessary, Post requests Department guidance on how to accomplish this.

Action Request

¶14. (U) The requests for guidance above are repeated here for ease of reference.

- Department approval for the records dispositions described above, or specific guidance where the proposed dispositions are not approvable.
 - Check with the RSC whether it has a set of the ODP microfiche and microfilm. (Para 4 and 5)
 - If RSC does not have a set of the microform ODP records, Post seeks guidance, on how to ship the records to RSC. Post presumes this will shipped through the classified pouch. (Para 4 and 5)
 - What is the file disposition schedule for Amerasian cases refused under INA 101(a)(42)? (Para 7)
 - May abandoned Amerasian files be destroyed three years after last action? If not, when? (Para 7)
 - A decision from USCIS on where to transfer closed, refused, and unprocessed cases with alien numbers: HCMC or Bangkok? (Paras 9, 10, and 11)
 - A decision from USCIS on where to transfer unprocessed Visas 93 cases: HCMC or Bangkok? (Para 11)
 - Department concurrence on scanning HR applications into an indexed DVD-based archive. (Para 12)
 - If necessary, Department guidance/assistance on destruction of the ODP microform records as local destruction is not an option. (Para 13)
- FAIRFAX